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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/744,215	01/19/2001	Bernard Agasse	11345.019001	3920
22511	7590	05/20/2005	EXAMINER	
OSHA LIANG L.L.P. 1221 MCKINNEY STREET SUITE 2800 HOUSTON, TX 77010			DEMICCO, MATTHEW R	
			ART UNIT	PAPER NUMBER
			2611	

DATE MAILED: 05/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/744,215

Applicant(s)

AGASSE, BERNARD

Examiner

Matthew R. Demicco

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15 and 31-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15 and 31-53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/26/04</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This action is responsive to an amendment filed 10/26/2004. Claims 15 and 31-53 are pending. Claim 15 is amended. Claims 31-53 are new. Claims 1-14 and 16-30 are canceled. The objections to the drawings are hereby withdrawn in light of the amendment.

Response to Arguments

2. Applicant's arguments with respect to claims 15 and 42 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 15 and 31-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,772,433 to LaJoie et al. in view of U.S. Patent No. 5,828,420 to Marshall et al.

Regarding Claim 15, LaJoie discloses a method for providing a user with options for accessing at least one of a plurality of received channels (See Figure 16) comprising at least one channel (390) and a service channel (Col. 16, Lines 12-33) of a digital television system (See Figure 1) comprising the steps of generating a service menu for display on a display (See Figure 16), the service menu comprising a list of a plurality of

services available to a user (channels of programming available). Further disclosed is generating, upon selection of one of the listed services from the service menu (selecting an IPPV channel from the EPG), at least one subsidiary menu (See Figure 28, event barker with purchasing and summary options) for display on the display with only the selected service (IPPV event) to provide the user with a plurality of options for accessing at least one of the received channels (Col. 31, Lines 15-25). What is not disclosed, however, is that the menus are superimposed over a program transmitted on one of the received channels.

Marshall discloses an electronic program guide wherein the menus are superimposed over the information transmitted on a video channel (See Figures 3-9) wherein the level of transparency is selectable by the user (Col. 3, Lines 40-45). Marshall is evidence that ordinary workers in the art would recognize the benefits of superimposing an EPG on video programming in a digital television system. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of LaJoie with the EPG superimposed on the video programming of Marshall in order to allow the user to continue viewing the program in a full screen with only minimal, user-definable intrusion by the EPG menu.

Regarding Claim 31, LaJoie in view of Marshall disclose a method as stated above in Claim 15. What is not disclosed, however, is that the list of services contained in the menu is varied according to the subscription rights of the user. Official Notice is hereby taken that it is well known in the art to implement conditional access to services in a digital television system. This reads on the claimed list of services being variable

depending on the subscription rights of the user. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of LaJoie in view of Marshall with the conditional access of the well-known prior art in order to implement multiple tiers of access based on different levels of purchased services or to parentally restrict children from accessing various services, for example.

Regarding Claim 32, LaJoie in view of Marshall disclose a method as stated above in Claim 15. LaJoie further discloses allowing a user to sort the list of services (EPG) by user preference (See Figures 20-23 and Col. 26, Line 42 – Col. 27, Line 32 and Col. 28, Lines 11-53). This reads on the claimed list of services contained in the menu being ordered according to the preferences of the user.

Regarding Claim 33, LaJoie in view of Marshall disclose a method as stated above in Claim 15. LaJoie further discloses that control signals are received from a remote control handset (Col. 15, Lines 3-6).

Regarding Claim 34, LaJoie in view of Marshall disclose a method as stated above in Claim 33. LaJoie further discloses that the service menu is generated for display on the display in response to the touch of a single dedicated key on the handset (Col. 26, Lines 11-13).

Regarding Claim 35, LaJoie in view of Marshall disclose a method as stated above in Claim 33. LaJoie further discloses that the display of the list of services contained in the menu is scrolled in response to commands received from navigation keys of the handset (Col. 25, Lines 3-10).

Regarding Claim 36, LaJoie in view of Marshall disclose a method as stated above in Claim 15. LaJoie further discloses that the service menu is scrolled within a fixed framework such that the cursor and grid do not move (Col. 24, Line 66 – Col. 25, Line 3). This reads on the claimed service menu being scrolled around a fixed bar displayed on the display.

Regarding Claim 37, LaJoie in view of Marshall disclose a method as stated above in Claim 36. LaJoie further discloses that the fixed bar (cursor and grid framework of the EPG) include navigations arrows showing possible directions of movement of the service menu (See Figure 16, 352, 354, 356 and 358).

Regarding Claim 38, LaJoie in view of Marshall disclose a method as stated above in Claim 15. LaJoie further discloses that upon user selection of one of the options from the subsidiary menu (for example, pressing the buy option of Figure 28), a second subsidiary menu is generated for display on the display with the selected one of the listed services (552) to provide the user with a plurality of further options (554, PIN Entry or Cancel) for accessing at least one of the received channels (Col. 31, Lines 15-36).

Regarding Claim 39, LaJoie in view of Marshall disclose a method as stated above in Claim 15. LaJoie further discloses that the channel displayed on the display is changed in response to the selection of a particular option from a subsidiary menu (Col. 31, Lines 33-36).

Regarding Claim 40, LaJoie in view of Marshall disclose a method as stated above in Claim 39. LaJoie further discloses that the set top box tunes to a channel to immediately display an IPPV event in response to the user's selection from the subsidiary

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menu as stated above. This reads on the claimed service channel from the received channels (IPPV channel) being accessed at a particular display screen (wherever the IPPV event is in progress) within that service channel in dependence on the option chosen within a subsidiary menu.

Regarding Claim 41, LaJoie in view of Marshall disclose a method as stated above in Claim 15. LaJoie further discloses that the menus contain regularly updated information received together with the program over which the menus are superimposed (Col. 30, Lines 55-58).

Regarding Claim 42, see Claim 15 above. LaJoie further discloses a decoder (See Figure 3, 38) for receiving the channels and a control unit (30, 36) for generating the menus.

Regarding Claims 43-53, see Claims 31-41 above, respectively.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

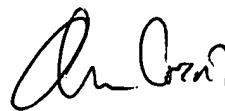
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew R. Demicco whose telephone number is (571) 272-7293. The examiner can normally be reached on Mon-Fri, 9am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MRD

mr
May 13, 2005



CHRIS GRANT
PRIMARY EXAMINER